IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 336 OF 2007

Mrs. Mericia Senhora do Rosario
Viegas e Gomes, major in age,
Nurse, resident of Flat No. 51/B,
In chapel View Apartments,
Borda Margao-Goa. .... Petitioner

V/s

M/s. Almeida Associates,
A Partnership Firm engaged in
Activities of Engineers,
Builders and Real Estate Developers,
With office at Marchon Building,
1st Floor, Margao Goa,
Represented by its Partner,
Shri Jose Almeida, major in age,
Civil Engineer, Resident of Fatorda,
Margao Goa. .... Respondent

Mr. P.P. Singh, Advocate for the Petitioner.

CORAM : N.A. BRITTO, J.

DATE : 24th SEPTEMBER, 2007

ORAL ORDER :

Heard Shri P.P. Singh, the learned Counsel on behalf of the Petitioner/original Defendant.

2. There is no dispute that the original Civil Suit was filed by the Respondent/Plaintiff on 23/06/1989. The trial Court decreed the suit for the recovery of the sum of Rs. 42,456.30 with interest at the rate of 18% from the

date of filing of the suit till the date of decree and further interest at the rate of 6% per year from the date of the decree to the date of actual payment. The first appellate Court modified the decree and directed the Defendant (the Petitioner herein) to pay to the Plaintiff a sum of Rs. 24,007/- with interest at the rate of 8% p.a. and again, from the date of filing of the suit. The date of filing of the suit was wrongly shown as 30/11/2000, that being the date when Special Civil Suit No. 125/89/B was re-registered after the change of pecuniary jurisdiction as RCS No. 377/00/C. The learned trial Court by impugned order has corrected the date of the institution of the suit as 23/06/1989 from 30/11/2000 regarding which there is no dispute. That for some time, the learned Civil Judge has taken no action in the said Civil Suit, after its filing on 23/06/1989, could not be worked out against the interest of the Respondent/Plaintiff. Since the suit was instituted on 23/06/1989 any amount directed to be paid from the date of the filing of the suit has to be computed from 23/06/1989 and not from the date the suit was re-registered i.e. 30/11/2000.

3. This is not a fit case for the interference in extra ordinary jurisdiction. The petition is dismissed in limine.

N.A. BRITTO, J.

NH/-